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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>29 July 2009</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-53</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-53</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

- Claims 1-53 are presented for further examination.

- Because Applicants have failed to challenge any of the Examiner's "Official Notices"
  stated in the previous office action in a proper and reasonably manner, they are now
  considered as admitted prior art. See MPEP 2144.03

- Prosecution Reopen with withdrawn previous office action and applying new ground of
  rejections.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

Claims 1-53 are rejected under 35 U.S.C. 101 because the claimed invention is directed

to non-statutory subject matter.

According to Claim 14 of the claim, the method claims only appear to be software steps

and fails to ties to another statutory class within the body of the claim. Thus, the method claims

1 and 27 are not statutory.

According to Claim 14 of the claim, the means for in Claim 8 fails to provide any

hardware framework, thus, a system that comprising purely software framework is considered as

program per se. Therefore, the system claim 8 is not statutory.

According to Claim 14 of the claim, Claim 34 fails to comprise any hardware framework, thus, an apparatus that fails to comprise any hardware framework is considered as program per se and is not statutory under 35. U.S.C 101.

It is well known in the art that an readable media could be interpreted as signal per se, thus, Claims 14 is not statutory under 35 U.S.C 101.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maddux et al hereinafter Maddux (US 2002/0124245) in view of Moshir et al hereinafter Moshir (US 2005/0257214)

1.   Referring to Claim 1. Maddux discloses a method to deploy one or more data processing systems, comprising: providing a plurality of rules that determine the deployment information that are available to deploy on the one or more data processing systems and deployment action on the one or more data processing systems (refer to par 0128 and par 0146 and par 0229); capturing deployment information from a reference data processing system to deploy on said one or more data processing systems (refer to par 0145), wherein said deployment information is

stored in a memory (refer to par 0150 and 0259); selecting said one or more data processing

systems (refer to 0122); selecting, by a user, a package of said deployment information to be

deployed on said one or more data processing systems (refer to par 0222, 0264 and 0278); and

intelligently deploying said one or more data processing systems upon receiving a command

from the user if there is a match between attributes of said package and attributes of said one or

more data processing systems (refer to par 0289), wherein the user selects the package attributes

and data processing systems attributes to include and exclude for matching (refer to 0218),

wherein said intelligently deploying is based on said deployment information that was captured,

and includes referencing said package of said deployment information that is stored in said

memory (refer to par 0253 and 0282).

Although Muddux disclosed the invention substantially as claimed, Muddux did not

explicitly disclosing "alternatively, suspending deployment of said one or more data processing

systems if there is no match between said attributes of said package and said attributes of said

one or more data processing systems"

Moshir, in analogous art, disclosing "alternatively, suspending deployment of said one or

more data processing systems if there is no match between said attributes of said package and

said attributes of said one or more data processing systems (refer to par 0085)"

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to combine Muddux and Moshir because Moshir"s teaching of "alternatively,

suspending deployment of said one or more data processing systems if there is no match between

said attributes of said package and said attributes of said one or more data processing systems"

would improve Moshir's system by ensures the system is able to intelligently recommend which

patches and drivers are required for computer(s).

2.   Referring to Claim 2, Maddux and Moshir disclosed the method of claim 1, Maddux

further discloses wherein said deployment information in said memory is stored on a dedicated

data processing system connected to a computer network (refer to par 0218 and 0114).

3.   Referring to Claim 3, Maddux and Moshir disclosed the method of claim 1, Maddux

further discloses wherein capturing said deployment information includes refreshing said

deployment information (refer to par Claim 24 of Maddux).

4.   Referring to Claim 4, Maddux and Moshir disclosed the method of claim 1, Maddux

further discloses wherein capturing said deployment information includes referencing

deployment information stored from a previous instance of deployment of one or more data

processing systems (refer to 0009 and par 0051).

5.   Referring to Claim 5, Maddux and Moshir disclosed the method of claim 1, Maddux

further discloses wherein said deployment information includes information selected from the

group of information consisting of: disk drive partitions, disk drive settings, disk array controller

settings, PCI device settings, non-PCI device settings, firmware settings, fixed code settings,

operating system information, application software package information, user settings,

personalization information, or configuration information (refer to 0219-0220).

6.   Referring to Claim 6, Maddux and Moshir disclosed the method of claim 1, Maddux

further discloses wherein said deployment information includes a hardware portion of a

configuration and a remaining portion of said configuration (refer to par 0219), and said

intelligently deploying can update said hardware portion of said configuration on a data

processing system of said one or more data processing systems before software image

deployment, without destructively modifying said remaining portion of said configuration of said

one or more data processing systems (refer to par 0223).

7.   Referring to Claim 7, Maddux and Moshir disclosed the method of claim 1, Maddux

further discloses wherein said deployment information includes a hardware portion of a

configuration and a remaining portion of said configuration, and said intelligently deploying can

update said hardware portion of said configuration on a data processing system of said one or

more data processing systems that has already been configured, without destructively modifying

said remaining portion of said configuration of said one or more data processing systems (refer

to par 0223).

8.   Referring to Claim 8, Maddux discloses a computer network to facilitate the intelligent

deployment of one or more data processing system, comprising: one or more data processing

systems to be intelligently deployed (refer to Fig 1); one or more reference data processing

systems containing deployment information (refer to par 0049); a plurality of rules that

determine the deployment information that are available to deploy on the one or more data

processing systems and deployment action on the one or more data processing systems (refer to

par 0128, 0146, and par 0229); a means for transmission capable of conveying said deployment

information to said one or more data processing systems (refer to 0145); and a dedicated data

processing system containing deployment information copied from said one or more reference

data processing systems, wherein said dedicated data processing system conveys to said one or

more data processing systems over said means for transmission a package of deployment

information selected from said deployment information, which is based on said deployment

information that was captured (refer to par 0222, 0264, 0278), upon receiving a command from a

user, wherein the user selects the package attributes and data processing systems attributes to

include and exclude for matching (refer to par 0218 and 0253 and 0282).

Although Muddux disclosed the invention substantially as claimed, Muddux did not

explicitly disclosing "wherein said dedicated data processing system compares attributes of said

package of said deployment information with attributes of said one or more data processing

systems and prevents transmission of said package to said one or more data processing systems if

there is no match between said attributes of said package and said attributes of said one or more

data processing systems, "

Moshir, in analogous art, disclosing "wherein said dedicated data processing system

compares attributes of said package of said deployment information with attributes of said one or

more data processing systems and prevents transmission of said package to said one or more data

processing systems if there is no match between said attributes of said package and said

attributes of said one or more data processing systems, (refer to par 0085)"

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Muddux and Moshir because Moshir"s teaching of "alternatively, suspending deployment of said one or more data processing systems if there is no match between said attributes of said package and said attributes of said one or more data processing systems" would improve Moshir's system by ensures the system is able to intelligently recommend which patches and drivers are required for computer(s).

9.   Referring to Claim 9, Maddux and Moshir disclosed the computer network of claim 8, Maddux further disclosing a memory in said dedicated data processing system to store said package of said deployment information (refer to par 0150 and par 0259).

10.   Referring to Claim 10, Maddux and Moshir disclosed the computer network of claim 8, wherein capturing said deployment information includes referencing deployment information stored from a previous instance of intelligent deployment of one or more data processing systems (refer to par 0219).

11.   Referring to Claim 11, Maddux and Moshir disclosed the computer network of claim 8, Maddux further disclosing wherein said deployment information includes information selected from the group of information consisting of: disk drive partitions, disk drive settings, disk array controller settings, PCI device settings, non-PCI device settings, firmware settings, fixed code settings, operating system information, application software package information, User settings,

personalization information, or configuration information (refer to par 0219, 0220 and 0222 and 224).

12.   Referring to Claim 12, Maddux and Moshir disclosed the computer network of claim 8, Maddux further disclosing wherein said deployment information includes a hardware portion of a configuration and a remaining portion of said configuration (refer to par 0219), and said computer network can update said hardware portion of said configuration on a data processing system of said one or more data processing systems before software image deployment, without destructively modifying said remaining portion of said configuration of said one or more data processing systems (refer to par 0223).

13.   Referring to Claim 13, Maddux and Moshir disclosed the computer network of claim 8, Maddux further disclosing wherein said deployment information includes a hardware portion of a configuration and a remaining portion of said configuration (refer to par 0219), and said computer network can update said hardware portion of said configuration on a data processing system of said one or more data processing systems that has already been configured, without destructively modifying said remaining portion of said configuration of said one or more data processing systems (refer to par 0144 and par 0212 and par 0223)

14.   Referring to Claim 14, Maddux discloses a computer program embodied on electronically-readable media, containing instructions to facilitate the deployment of one or more data processing systems, comprising: a program code segment to capture deployment

information from a reference data processing system to deploy on said one or more data

processing systems (refer to par 0145), wherein said deployment information is stored in a

memory (refer to par 0150, and 0259); a program code segment to select said one or more data

processing systems (refer to par 0122); a program code segment to provide a plurality of rules

that determine the deployment information that are available to deploy on the one or more data

processing systems and deployment action on the one or more data processing systems (refer to

par 0128 and par 0146 and par 0229); a program code segment to select a package of said

deployment information to be deployed on said one or more data processing systems (refer to par

0222, 0264 and par 0278); and a program code segment to intelligently deploy said one or more

data processing systems upon receiving a command from the user (refer to oar 0289), including

program code to reference said package of said deployment information that is stored in said

memory, if there is a match between attributes of said package and attributes of said one or more

data processing systems (refer to par 0289 and 0218);

Although Muddux disclosed the invention substantially as claimed, Muddux did not

explicitly disclosing "alternatively, suspending deployment of said one or more data processing

systems if there is no match between said attributes of said package and said attributes of said

one or more data processing systems"

Moshir, in analogous art, disclosing "alternatively, suspending deployment of said one or

more data processing systems if there is no match between said attributes of said package and

said attributes of said one or more data processing systems (refer to par 0085)"

It would have been obvious to one of ordinary skill in the art at the time of the invention

was made to combine Muddux and Moshir because Moshir"s teaching of "alternatively,

suspending deployment of said one or more data processing systems if there is no match between said attributes of said package and said attributes of said one or more data processing systems" would improve Moshir's system by ensures the system is able to intelligently recommend which patches and drivers are required for computer(s).

15.   Referring to Claim 15, Maddux and Moshir disclosed the computer program of claim 14, Maddux further disclosing wherein said memory that stores said package of said deployment information is included in a dedicated data processing system (refer to par 0218 and par 0114).

16.   Referring to Claim 16, Maddux and Moshir disclosed the computer program of claim 14, wherein said program code segment to capture deployment information from a reference data processing system to deploy on said one or more data processing systems is executed on a data processing system coupled to a network of data processing systems (refer to par 0218 and par 0114).

17.   Referring to Claim 17, Maddux and Moshir disclosed the computer program of claim 14, Maddux further disclosing wherein said program code segment to select one or more data processing systems to be included in said one or more data processing systems is executed on a data processing system coupled to a network of data processing systems (refer to par 0218 and par 0114).

18.   Referring to Claim 18, Maddux and Moshir disclosed the computer program of claim 14,

Maddux further disclosing wherein said program code segment to select a package of said

deployment information to be deployed on said one or more data processing systems is executed

on a data processing system coupled to a network of data processing systems (refer to par 0218

and par 0114).

19.   Referring to Claim 19, Maddux and Moshir disclosed the computer program of claim 14,

Maddux further disclosing wherein said program code segment to intelligently deploy said one

or more data processing systems upon receiving a command from user interacts with a network

of data processing systems (refer to par 0222, 0264, an 0278).

20.   Referring to Claim 20, Maddux and Moshir disclosed the computer program of claim 14,

Maddux further disclosing wherein said electronically-readable memory is a non-volatile

memory selected from the group of non-volatile memories consisting of: a magnetic disk drive, a

magneto- optic disk drive, a floppy diskette, a compact disc and a flash memory (stored in the

databased, refer to par 0150 and par 0259 and the memory within the computer would be

obvious to be any of the non-volatile memory group).

21.   Referring to Claim 21, Maddux and Moshir disclosed the method of claim 1, Maddux

further disclosing selecting, by the user, one of a default image capture and a customized image

capture, where the default image capture will result in an automatic image capture of all

hardware configurations and base software images in the reference data processing system (refer

to par 0144) and the customized image capture will result in the image capture of selected

hardware configurations, base software images, or incremental capture of images in the reference

data processing system (refer to par 0219-0227 and refer to par 0144 and par 0212)

22.   Referring to Claim 22, Maddux and Moshir disclosed the method of claim 1, Maddux

further disclosing selecting, by the user, one of a default deployment or a customized

deployment, where the default deployment will deploy all hardware configurations and software

images that have been captured from the reference data processing system and the customized

deployment will deploy selected hardware configuration, base software images or perform

incremental deployment of captured information (refer to par 0275-0282 and 0210-0211).

23.   Referring to Claim 23, Maddux and Moshir disclosed the computer network of claim 8,

Maddux further disclosing wherein the user selects one of a default image capture and a

customized image capture, where the default image capture will result in an automatic image

capture of all hardware configurations and base software images in the reference data processing

system and the customized image capture will result in the image capture of selected hardware

configurations, base software images, or incremental capture of images in the reference data

processing system (refer to par 0145 and refer to par 0144 and par 0212).

24.   Referring to Claim 24, Maddux and Moshir disclosed the computer network of claim 8,

wherein the user selects one of a default deployment or a customized deployment, where the

default deployment will deploy all hardware configurations and software images that have been

captured from the reference data processing system and the customized deployment will deploy

selected hardware configuration, base software images or perform incremental deployment of

captured information (refer to par 0148-0156).

25.   Referring to Claim 25, Maddux and Moshir disclosed the computer program of claim 14,

Maddux further disclosing wherein the user selects one of a default image capture and a

customized image capture, where the default image capture will result in an automatic image

capture of all hardware configurations and base software images in the reference data processing

system and the customized image capture will result in the image capture of selected hardware

configurations, base software images, or incremental capture of images in the reference data

processing system (refer to par 0148-0156 and refer to par 0144 and par 0212)

26.   Referring to Claim 26, Maddux and Moshir disclosed the computer program of claim 14,

Maddux further disclosing wherein the user selects one of a default deployment or a customized

deployment, where the default deployment will deploy all hardware configurations and software

images that have been captured from the reference data processing system and the customized

deployment will deploy selected hardware configuration, base software images or perform

incremental deployment of captured information (refer to par 0148-0156)

27.   Referring to Claim 27, Maddux discloses a method for deploying at least one target data

processing system, comprising: selecting a reference data processing system; specifying, by a

user, capture information of an image to be captured from the reference data processing system

(refer to par 0212 and par 0144), wherein said capture information includes a name, description and destination of the image (refer to par 0219); providing a plurality of rules that determine the capture information that are available to deploy on the target data processing system and deployment action on the target data processing system (refer to par 0128 and 0146 and 0229); capturing the capture information or customized capture information from the reference data processing system after selecting an image capture option (refer to par 0212); selecting said target data processing system (refer to 0222); deploying the capture information or customized capture information to the target data processing system based upon a selected deployment option if there is a match between attributes of said captured image and attributes of said target data processing system, wherein the user selects the captured image attributes and target data processing system attributes to include and exclude for matching (refer to par 0289).

Although Muddux disclosed the invention substantially as claimed, Muddux did not explicitly disclosing "alternatively, suspending deployment of said one or more data processing systems if there is no match between said attributes of said package and said attributes of said one or more data processing systems"

Moshir, in analogous art, disclosing "alternatively, suspending deployment of said one or more data processing systems if there is no match between said attributes of said package and said attributes of said one or more data processing systems (refer to par 0085)"

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Muddux and Moshir because Moshir"s teaching of "alternatively, suspending deployment of said one or more data processing systems if there is no match between said attributes of said package and said attributes of said one or more data processing systems"

would improve Moshir's system by ensures the system is able to intelligently recommend which patches and drivers are required for computer(s).

28.   Referring Claim 28, Maddux and Moshir disclosed the method of claim 27, Maddux further disclosing refreshing the capture information or customized capture information (refer to par 0144 and par 0212 and Claim 24 of Maddux)

29.   Referring to Claim 29, Maddux and Moshir disclosed the method of claim 27, Maddux further disclosing wherein the capture information includes information selected from the group of information consisting of: disk drive partitions, disk drive settings, disk array controller settings, PCI device settings, non-PCI device settings, firmware settings, fixed code settings, operating system information, application software package information, user settings, personalization information, or configuration information (refer to par 0219)

30.   Referring to Claim 30, Maddux and Moshir disclosed the method of claim 27, Maddux further disclosing wherein the capture information includes a hardware portion of a configuration and a remaining portion of said configuration, and said intelligently deploying can update said hardware portion of said configuration on said target data processing systems before software image deployment, without destructively modifying said remaining portion of said configuration of said target data processing systems (refer to par 0144 and par 0212).

31.   Referring to Claim 31, Maddux and Moshir disclosed the method of claim 27, Maddux

further disclosing wherein the capture information includes a hardware portion of a configuration

and a remaining portion of said configuration, and said intelligently deploying can update said

hardware portion of said configuration on said target data processing systems that has already

been configured, without destructively modifying said remaining portion of said configuration of

said target data processing systems (refer to par 0144 and par 0212)

32.   Referring to Claim 32, Maddux and Moshir disclosed the method of claim 27, Maddux

further disclosing selecting the image capture option by selecting one of a default image capture

and a customized image capture, where the default image capture will result in an automatic

image capture of all hardware configurations and base software images in the reference data

processing system and the customized image capture will result in the image capture of selected

hardware configurations, base software images, or incremental capture of images in the reference

data processing system (refer to par 0144 and par 0212).

33.   Referring to Claim 33, Maddux and Moshir disclosed the method of claim 27, Maddux

further disclosing selecting a deployment option by selecting one of a default deployment or a

customized deployment, where the default deployment will deploy all hardware configurations

and software images that have been captured from the reference data processing system and the

customized deployment will deploy selected hardware configuration, base software images or

perform incremental deployment of captured information (refer to par 0148-0156)

34.   Referring to Claim 34, Maddux discloses an apparatus for deploying at least one data

processing system, the apparatus comprising : at least one reference data processing system

containing capture information;

at least one target data processing system to be deployed (refer to); a plurality of rules

that determine the capture information that are available to deploy on the target data processing

system and deployment action on the target data processing system (refer to par 0218, 0146, and

par 0229);

a dedicated deployment data processing system, wherein said dedicated deployment data

processing system captures and stores in a memory said capture information from said reference

data processing system based upon a selected image capture option (refer to par 0212),

where the dedicated deployment data processing system conveys to said target data

processing system a package of deployment information selected from said capture information

or customized capture information by a user based upon a selected deployment option if there is

a match between attributes of said package and attributes of said target data processing system,

and alternatively (refer to par 0218, 0253, and 0282);

Although Muddux disclosed the invention substantially as claimed, Muddux did not

explicitly disclosing "alternatively, suspending deployment of said one or more data processing

systems if there is no match between said attributes of said package and said attributes of said

one or more data processing systems"

Moshir, in analogous art, disclosing "alternatively, suspending deployment of said one or

more data processing systems if there is no match between said attributes of said package and

said attributes of said one or more data processing systems (refer to par 0085)"

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine Muddux and Moshir because Moshir"s teaching of "alternatively, suspending deployment of said one or more data processing systems if there is no match between said attributes of said package and said attributes of said one or more data processing systems" would improve Moshir's system by ensures the system is able to intelligently recommend which patches and drivers are required for computer(s).

35.   Referring to Claim 35, Maddux and Moshir disclosed the apparatus of claim 34, Maddux further disclosing further comprising refreshing the capture information or customized capture information (refer to par 0144 and par 0212 and Claim 24 of Maddux)

36.   Referring to Claim 36, Maddux and Moshir disclosed the apparatus of claim 34, Maddux further disclosing wherein said capture information includes information selected from the group of information consisting of: disk drive partitions, disk drive settings, disk array controller settings, PCI device settings, non-PCI device settings, firmware settings, fixed code settings, operating system information, application software package information, user settings, personalization information, or configuration information (refer to par 0219)

37.   Referring to Claim 37, Maddux and Moshir disclosed the apparatus of claim 34, Maddux further disclosing wherein said capture information includes a hardware portion of a configuration and a remaining portion of said configuration, and said deploying can update said hardware portion of said configuration on said target data processing systems before software

image deployment, without destructively modifying said remaining portion of said configuration

of said target data processing systems (refer to par 0144 and par 0212).

38.   Referring to Claim 38, Maddux and Moshir disclosed the apparatus of claim 34, Maddux

further disclosing wherein said capture information includes a hardware portion of a

configuration and a remaining portion of said configuration, and said deploying can update said

hardware portion of said configuration on said target data processing systems that has already

been configured, without destructively modifying said remaining portion of said configuration of

said target data processing systems (refer to par 0144 and par 0212).

39.   Referring to Claim 39, Maddux and Moshir disclosed the apparatus of claim 34, Maddux

further disclosing wherein the user selects an image capture option by selecting one of a default

image capture and a customized image capture, where the default image capture will result in an

automatic image capture of all hardware configurations and base software images in the

reference data processing system and the customized image capture will result in the image

capture of selected hardware configurations, base software images, or incremental capture of

images in the reference data processing system (refer to par 0144 and par 0212).

40.   Referring to Claim 40, Maddux and Moshir disclosed the apparatus of claim 34, Maddux

further disclosing wherein the user selects a deployment option by selecting one of a default

deployment or a customized deployment, where the default deployment will deploy all hardware

configurations and software images that have been captured from the reference data processing

system and the customized deployment will deploy selected hardware configuration, base

software images or perform incremental deployment of captured information (refer to par 0148-

0156)

41.   Referring to Claim 41, Maddux and Moshir disclosed the method of claim 1, Maddux

further disclosing selecting, by a user, one of an default image capture option or a customized

image capture option, where the default image capture option automatically captures a capture

information from the deployment information for deployment on the target data processing

systems, and where the customized image capture option captures a customized capture

information comprising one of a base software image, incremental software images, or hardware

parameters for deployment on the target data processing systems (refer to par 0144 and par

0212).

42.   Referring to Claim 42, Maddux and Moshir disclosed the computer network of claim 8,

Maddux further disclosing wherein the user selects one of an default image capture option or a

customized image capture option, where the default image capture option automatically captures

a capture information from the deployment information for deployment on the target data

processing systems, and where the customized image capture option captures a customized

capture information comprising one of a base software image, incremental software images, or

hardware parameters for deployment on the target data processing systems (refer to par 0144 and

par 0212).

43.   Referring to Claim 43, Maddux and Moshir disclosed the computer program of claim 14

Maddux further disclosing, wherein the instructions further comprises: a program code segment

to permit the user to select one of an default image capture option or a customized image capture

option, where the default image capture option automatically captures a capture information

from the deployment information for deployment on the target data processing systems, and

where the customized image capture option captures a customized capture information

comprising one of a base software image, incremental software images, or hardware parameters

for deployment on the target data processing systems (refer to par 0144 and par 0212).

44.   Referring to Claim 44, Maddux and Moshir disclosed the method of claim 1, Maddux

further disclosing selecting, by the user, one of a default deployment option or a customized

deployment option, where the default deployment option deploys the package of said

deployment information on said one or more data processing systems, and where the customized

deployment option deploys one of a base software image, incremental software images, or

hardware parameters on said one or more data processing systems (refer to par 0144 and par

0212).

45.   Referring to Claim 45, Maddux and Moshir disclosed the computer network of claim 8,

Maddux further disclosing wherein the user selects one of a default deployment option or a

customized deployment option, where the default deployment option deploys the package of said

deployment information on said one or more data processing systems, and where the customized

deployment option deploys one of a base software image, incremental software images, or

hardware parameters on said one or more data processing systems (refer to par 0144 and par 0212).

46.   Referring to Claim 46, Maddux and Moshir disclosed the computer program of claim 14 Maddux further disclosing a program code to permit a user to select one of a default deployment option or a customized deployment option, where the default deployment option deploys the package of said deployment information on said one or more data processing systems, and where the customized deployment option deploys one of a base software image, incremental software images, or hardware parameters on said one or more data processing systems (refer to par 0148-0156).

47.   Referring to Claim 47, Maddux and Moshir disclosed the method of claim 27, Maddux further disclosing selecting, by the user, one of an default image capture option or a customized image capture option, where the default image capture option automatically captures the capture information for deployment on the target data processing system, and where the customized image capture option captures a customized capture information comprising one of a base software image, incremental software images, or hardware parameters for deployment on the target data processing system (refer to par 0144 and par 0212)

48.   Referring to Claim 48, Maddux and Moshir disclosed the apparatus of claim 34, Maddux further disclosing where a user selects one of an default image capture option or a customized image capture option, where the default image capture option automatically captures the capture

information for deployment on the target data processing system, and where the customized

image capture option captures a customized capture information comprising one of a base

software image, incremental software images, or hardware parameters for deployment on the

target data processing system (refer to par 0144)

49.   Referring to Claim 49, Maddux and Moshir disclosed the method of claim 1, Maddux

further disclosing setting each rule with an associated priority (procedures must follows to ensure

the success of the deployment, refer to 0121)

50.   Referring to Claim 50, Maddux and Moshir disclosed the computer network of claim 8,

Maddux further disclosing wherein each rule has an associated priority (procedures must follows

to ensure the success of the deployment, refer to 0121).

51.   Referring to Claim 51, Maddux and Moshir disclosed the computer program of claim 14,

Maddux further disclosing further comprising: a program code segment to set each rule with an

associated priority.

52.   Referring to Claim 52, Maddux and Moshir disclosed the method of claim 27, Maddux

further disclosing setting each rule with an associated priority (procedures must follows to ensure

the success of the deployment, refer to 0121).

53.   Referring to Claim 53, Maddux and Moshir disclosed the apparatus of claim 34, Maddux

further disclosing wherein each rule has an associated priority ((procedures must follows to

ensure the success of the deployment, refer to 0121).

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
patent by another filed in the United States before the invention by the applicant for patent, except that an
international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
subsection of an application filed in the United States only if the international application designated the United
States and was published under Article 21(2) of such treaty in the English language.

Claims 1-53 are rejected under 35 U.S.C. 102(e) as being anticipated by Maddux et al

hereinafter Maddux (US 2002/0124245).

54.   Referring to Claims 1-53. Maddux discloses a method to deploy one or more data

processing systems, comprising: providing a plurality of rules that determine the deployment

information that are available to deploy on the one or more data processing systems and

deployment action on the one or more data processing systems (refer to par 0128 and par 0146

and par 0229); capturing deployment information from a reference data processing system to

deploy on said one or more data processing systems (refer to par 0145), wherein said deployment

information is stored in a memory (refer to par 0150 and 0259); selecting said one or more data

processing systems (refer to 0122); selecting, by a user, a package of said deployment

information to be deployed on said one or more data processing systems (refer to par 0222, 0264

and 0278); and intelligently deploying said one or more data processing systems upon receiving

a command from the user if there is a match between attributes of said package and attributes of

said one or more data processing systems (refer to par 0289), wherein the user selects the

package attributes and data processing systems attributes to include and exclude for matching

(refer to 0218), wherein said intelligently deploying is based on said deployment information that

was captured, and includes referencing said package of said deployment information that is

stored in said memory (refer to par 0253 and 0282);

alternatively, suspending deployment of said one or more data processing systems if ((an

optional language, does not require the step to happen therefore, the limitation is thus mooted

and have no patentable weight) there is no match between said attributes of said package and

said attributes of said one or more data processing systems

Conclusion

Examiner's Notes: Examiner has cited particular columns and line numbers in the

references applied to the claims above for the convenience of the applicant. Although the

specified citations are representative of the teachings of the art and are applied to specific

limitations within the individual claim, other passages and figures may apply as well. It is

respectfully requested from the applicant in preparing responses, to fully consider the references

in entirety as potentially teaching all or part of the claimed invention, as well as the context of

the passage as taught by the prior art or disclosed by the Examiner. In the case of amending the

claimed invention, Applicant is respectfully requested to indicate the portion(s) of the

specification which dictate(s) the structure relied on for proper interpretation and also to verify

and ascertain the metes and bounds of the claimed invention.

A shortened statutory period for reply to this Office action is set to expire THREE

MONTHS from the mailing date of this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karen C. Tang whose telephone number is (571)272-3116. The examiner can normally be reached on M-F 7 - 3.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571)272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Karen C Tang/

Examiner, Art Unit 2451